



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE BEGINNING OF MUR # 3167

DATE FILMED 4/29/92 CAMERA NO. 2

CAMERAMAN S.E.G.

92040900851

OGC 8553



DEMOCRATIC
CONGRESSIONAL
CAMPAIGN COMMITTEE

MUR 3167

Beryl Anthony, Jr., AR
Chairman

November 5, 1990

Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Dear Commissioners:

For the last several weeks, evangelist Pat Robertson's "Christian Coalition" has been purchasing radio advertisements and sending direct mail into the districts of at least four Democratic Members of the U.S. House of Representatives criticizing, and often distorting, their voting records.

Each radio ad and letter specifically names either Congressman Ben Jones (D-GA), Congresswoman Jolene Unsoeld (D-WA), Congressman Richard Stallings (D-ID), or Congressman Pat Williams (D-MT), and then attacks various votes they have made during their tenure in Congress.

The expenditures by the Christian Coalition are in violation of the Federal Election Campaign Act of 1971, as amended ("FECA" or "the Act"), 2 U.S.C. section 431 et seq., and related regulations of the Federal Election Commission ("FEC" or "Commission"), 11 C.F.R. section 100.1 et seq., because they appear to be independent expenditures on behalf of these Democratic Members' opponents. However, to date the Christian Coalition has not reported these independent expenditures to the FEC as required by 2 U.S.C. section 434 (b) (6) (B) (iii), (c) (1), (c) (2). Nor has the Christian Coalition registered as a political committee with the FEC as required by 2 U.S.C. section 431, 433. Even if the Christian Coalition is not a political committee required to register, it would be in violation of the Act's prohibition against corporate contributions or expenditures to 2 U.S.C. section 441b(a). Finally, the print and media advertisements do not include adequate disclaimers to clearly identify who is paying for them in violation of 2 U.S.C. section 441d(a).

Accordingly, the Democratic Congressional Campaign Committee ("DCCC") files this complaint and requests that the FEC take immediate action to put a stop to this illegal activity by the Christian Coalition.

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF LEGAL COUNSEL
90 NOV -5 PM 5:14

92040900852

Section 431 (17) of the Act defines an "independent expenditure" as

"an expenditure by a person expressly advocating the election or defeat of a clearly identified candidate which is made without cooperation or consultation with any candidate, or any authorized committee or agent of such candidate, and which is not made in concert with, or at the request or suggestion of, any candidate, or any authorized committee or agent of such candidate."

Section 431(18) defines the term "clearly identified" as including the name of, or and other unambiguous reference to the candidate.

It is clear that the targeted Democrats are clearly identified in the Christian Coalition advertisements. As examples, we have attached a copy of the script of the radio spot against Congressman Williams, and the text of a letter mailed attacking Congressman Jones. Both Members' names are repeated over and over again and their office phone numbers are included. We have been informed that the attacks on Congresswoman Unsoeld and Congressman Stallings follow identical formats. Also attached is a transcript of a television show in which the mailings and ads were discussed. It is also clear that the mailings were made for the purpose of influencing these federal elections.

Nor can it be contested that these advertisements and letters are aimed at promoting the defeat of the targeted individuals. The timing of them is just before an election. Although the Christian Coalition has carefully avoided using buzzwords such as "defeat" or "elect," there can be no other purpose intended by the timing of these advertisements. Cf. FEC v. Furgatch, 807 F.2d 857, 863-64 (9th Cir. 1987). To construe the statutory language so as not to include these mailings and radio announcements would ignore the Act's express purpose: to control and monitor spending in connection with and to influence election to federal office.

None of the mailings we have seen contain an adequate disclaimer under 2 U.S.C. section 441d(a). Even if it can be assumed that the Christian Coalition paid for the mailings, it does not state whether it was authorized by any candidate or, more importantly, not authorized by any candidate, in clear violation of the FECA.

Because the Christian Coalition has spent thousands of

3
5
8
0
0
9
0
4
0
2
9

dollars to defeat Representatives Jones, Unsoeld, Williams and Stallings, it should have registered with the Commission and reported these contributions as independent expenditures, fully disclosing the source of all moneys raised and spent for this purpose. In any event, it would also have to include sufficient disclaimers to notify the public by whom it was being persuaded. The Coalition has not done so.

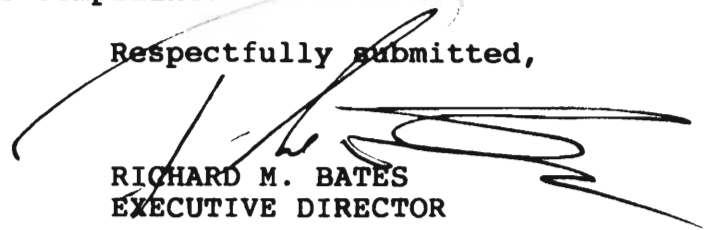
Moreover, if the expenditures do not qualify as independent, they would therefore be subject to the spending limitations and source restrictions of the Act. The Coalition, if incorporated, will have violated the Act's prohibitions against corporate expenditures, and may have violated contribution limits to individual candidates.

The Commission must investigate the Coalition immediately. As suggested in transcripts from the Coalition's television show, their illegal activity may have affected more than these four targeted Democrats.

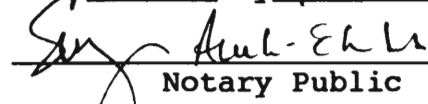
Accordingly, the DCCC requests that the FEC:

- (1) conduct a prompt and immediate investigation, including an audit, of the facts stated in this complaint;
- (2) enter into a prompt conciliation with the Respondents to remedy the violations alleged in this complaint and, more importantly, to ensure that no further violations occur; and
- (3) impose any and all penalties grounded in the violations alleged in this complaint.

Respectfully submitted,


RICHARD M. BATES
EXECUTIVE DIRECTOR

SUBSCRIBED AND SWORN TO BEFORE ME
this 5th day November, 1990.


Notary Public

SUZANNE ABELE-EBANKS
NOTARY PUBLIC, DISTRICT OF COLUMBIA
My Commission Expires October 31, 1994

My Commission Expires:

Script for announcement paid for by Christian Coalition.

PEOPLE IN THE STATE OF MONTANA WORK HARD FOR THEIR MONEY, BUT PAT WILLIAMS WANTS TO TAKE IT AWAY BY RAISING OUR TAXES. AND DO YOU KNOW WHY HE WANTS TO RAISE OUR TAXES? HE WANTS TO RAISE OUR TAXES TO PAY FOR PORNOGRAPHY. IT'S SHOCKING BUT TRUE. PAT WILLIAMS CHAIRS THE COMMITTEE THAT VOTED TO GIVE ONE HUNDRED EIGHTY MILLION DOLLARS OF OUR TAXES TO THE NATIONAL ENDOWMENT FOR THE ARTS, TO PAY FOR PHOTOGRAPHS SHOWING:

- A CRUCIFIX IN A JAR OF URINE;
- TWO MEN HAVING SEXUAL INTERCOURSE;
- A FOUR YEAR OLD GIRL WITH HER GENITALS EXPOSED.

ALL THIS PAID FOR BY OUR TAXES. AND THEN, PAT WILLIAMS VOTED TO RAISE OUR TAXES ONE HUNDRED FORTY NINE BILLION DOLLARS OVER THE NEXT FIVE YEARS, OR TWO THOUSAND FOUR HUNDRED DOLLARS FOR EVERY FAMILY OF FOUR IN AMERICA. YOU KNOW WHERE PAT WILLIAMS STANDS ON TAXES AND PORNOGRAPHY. NOW, LET HIM KNOW WHERE YOU STAND. CALL PAT WILLIAMS TODAY AT 443-7878 - THAT'S 443-7878 - AND TELL HIM YOU'RE AGAINST HIS VOTE FOR HIGHER TAXES AND PORNOGRAPHY. PAID FOR BY THE CHRISTIAN COALITION.

92040900855

Transcript: Discussion between Robertson and Ralph Reed, Executive Director of the Christian Coalition, broadcast on the "700 Club", November 1, 1990, on the Christian Broadcasting Network, Cable Channel 16, in Helena, Montana

ROBERTSON: Ralph Reed's here with us from the Christian Coalition. The Coalition is just up and running.

Ralph, you have some agenda items too. What is the Coalition doing?

REED: Well right now Pat we're distributing about four million voter guides in seven states to inform Christians where the candidates stand on the issues so they can get out and vote.

If you look at the '88 election cycle, for example, there were eighty-nine million votes cast for president. Twenty-five million people self identified themselves in network exit polls as either evangelicals, born again or pro-life Catholics.

If we could get that kind of a turnout again, we can see people like Jesse Helms and Tom Tauke win.

ROBERTSON: Are you sending out copies of that salacious, so called art, the Mapplethorpe photographs?

REED: Well, yes we are (giggles). With some of these congressmen, you read them their record back to them and they say that's a distortion, you know.

We're sending out the Mapplethorpe photographs, as we promised we would into seven states. And there are a number of congressmen that are in serious trouble because of that issue.

One of them is Ben Jones, a liberal freshman Democrat from Atlanta. Another is Jolene Unsworth, who you mentioned in your piece. Another one is Richard Stallings who is in Idaho too.

So there are some congressmen in real trouble.

ROBERTSON: You're not going to tell the media who the targets of the hit list are?

REED: We want them to know with the rest of the American people, the day after election when some of these members have a career change. (Both laughing)

ROBERTSON: But the Coalition essentially warned congress that if they voted to refund the NEA, that there would be retribution.

REED: Well that's correct and we think the taxpayers should be allowed to call the tune. And when their taxes are being used to fund homosexual art or so called homosexual art, the voters in those districts have a right to know what their taxes are being used for.

We're also doing, by the way, thousands of get out the vote phone calls in North Carolina so Christians will get to the polls next Tuesday.

ROBERTSON: So that kind of activity is with the Coalition. How many states is the Coalition in?

REED: We now have chapters operating. For about three hundred chapters operating in forty states all over the country.

ROBERTSON: This can be a very powerful political force.

REED: There's no question about it. As you have so eloquently said on this program if pro-family Roman Catholics and evangelicals will unite at the ballot box, there is almost no candidate anywhere in the country that we can't elect.

ROBERTSON: Where could somebody get in touch with you if they want to work more closely with the coalition?

REED: Well they can give me a call here in Chesapeake, Virginia at (804) 424-2630. And we will let them know how they can get their hands of those voter guides or we'll be glad to get them more information.

ROBERTSON: Well that's a tremendous service.

92040900857

October 26, 1990

Dear Christian Friends:

On October 11 Ben Jones voted to spend your hard-earned tax dollars on pornography.

That's right. He voted to give \$180 million of your taxes to the National Endowment for the Arts to pay for photographs depicting:

- Jesus Christ immersed in a vat of urine;
- Homosexuals engaged in sexual intercourse;
- A 4-year old girl with her genitals exposed;
- Jesus Christ shooting heroin in his arm.

And that's not all.

He also voted to allow the NEA to spend your taxes on--

-- \$9,000 to the Lesbian and Gay Film Festival in San Francisco, which includes films portraying lesbian group sex.

-- A porn queen named Annie Sprinkle performing sex acts on stage in New York City's Kitchen Theatre.

All this paid for by your taxes.

All this at a time when the federal government is three trillion dollars in debt.

And then Ben Jones voted to raise taxes \$149 billion over the next five years, or an average of \$2500 a year for every family of four in America.

Ben Jones voted against an amendment offered by Congressman Dana Rohrabacher (R-CA) that would have prohibited the NEA from spending your taxes on obscenity, child pornography, and blasphemy. I am proud to say that 60 brave Democrats voted for this amendment. But Ben Jones and 57 Republicans voted against our position, causing the amendment to fail.

9 2 0 4 0 9 0 0 8 5 9

The liberals in Congress have officially said that Christians in America do not matter, and that moral people for whom faith in Jesus Christ is important do not have a say in the affairs of government.

Now you know where Ben Jones stands on tax-funded pornography.

Let Ben Jones know where you stand.

Call him today at 371-9910 and tell him you are against his votes to raise your taxes and spend your tax dollars on pornography.

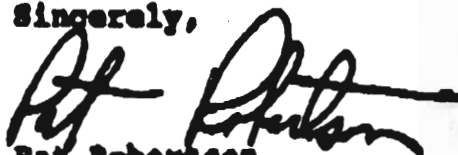
And please use the enclosed envelope to send your best gift today to the Christian Coalition so we can continue to stand tall for Christian values.

I need your help to air radio spots in your community to inform Ben Jones' constituents so they will tell him to oppose obscenity and blasphemy. Please send your best gift of \$50, \$35, or \$25 today.

We must stop liberals like Ben Jones from supporting this outrageous assault on faith and family.

God bless you. Your friendship and support means a great deal to me. I am

Sincerely,



Pat Robertson

P.S. Please call Ben Jones today at 371-9910. The Congress should vote again soon on tax-funded pornography. Your voice is vital at this critical time.

The Christian Coalition is a non-profit organization under IRS Code 501(C)(4). Contributions are not tax deductible.

From: _____

Place
Stamp
Here



CHRISTIAN COALITION
Box 1800
Chesapeake, Virginia 23320

92040900860

WARNING!

EXTREMELY EXPLICIT PHOTOGRAPHS PAID FOR BY YOUR TAX DOLLARS

The following photographs are reproductions of portions of exhibits funded by the National Endowment for the Arts with taxpayer funds. They are not suitable for children or minors.

YOUR TAXES AT WORK

These shocking photographs were paid for by your tax dollars. As explicit and disturbing as they are, you have a right to know what is being done with your taxes. The Bible says in Hosea 4:6, "My people perish for lack of knowledge."

o The National Endowment for the Arts gave \$30,000 to support an exhibit of Robert Mapplethorpe's "Perfect Moment" photographs. In addition to those included here, there was a self-portrait of Mapplethorpe with a bullwhip in his rectum, photographs of male genitalia, and depictions of two men engaged in anal sex.

o Also reproduced below is a small part of a larger work by David Wojnarowicz entitled "Tongues of Flame," showing Jesus Christ shooting heroin in his arm, an exhibit paid for by \$15,000 from the National Endowment for the Arts to the University Galleries of Illinois State University. This photograph was a small fraction of a larger work, part of a collage that showed a man standing in a cathedral with this portrait of Christ shooting drugs into his arm hanging on the wall behind him.

o Your Congressman voted against an amendment that would have prohibited the funding of these photographs. Call and write today and tell him you are opposed to his vote for tax-funded pornography.



One man urinating in another man's mouth.



Jesus Christ shooting drugs into his arm



92040900862



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

November 14, 1990

Richard H. Bates
Executive Director,
Democratic Congressional Campaign
Committee
430 South Capitol Street
Washington, D.C. 20003

RE: HUR 3167

Dear Mr. Bates:

This letter acknowledges receipt on November 5, 1990, of your complaint alleging possible violations of the Federal Election Campaign Act of 1971, as amended ("the Act"), by the Christian Coalition. The respondents will be notified of this complaint within five days.

You will be notified as soon as the Federal Election Commission takes final action on your complaint. Should you receive any additional information in this matter, please forward it to the Office of the General Counsel. Such information must be sworn to in the same manner as the original complaint. We have numbered this matter HUR 3167. Please refer to this number in all future correspondence. For your information, we have attached a brier description of the Commission's procedures for handling complaints.

If you have any questions, please contact Retha Dixon, Docket Chief, at (202) 376-3110.

Sincerely,

Lawrence H. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

Enclosure
Procedures

92040900863



FEDERAL ELECTION COMMISSION

WASHINGTON, DC 20463

November 14, 1990

Ralph Reed
Executive Director, of
the Christian Coalition
Box 1990
Chesapeake, VA 23320

RE: HUR 3167

Dear Mr. Reed:

The Federal Election Commission received a complaint which alleges that the Christian Coalition and you, as Executive Director may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter HUR 3167. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against you in this matter. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under oath. Your response, which should be addressed to the General Counsel's Office, must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.


This matter will remain confidential in accordance with 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public. If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

92040900864

If you have any questions, please contact Jim Brown, the attorney assigned to this matter at (202) 376-5690. For your information, we have attached a brief description of the Commission's procedures for handling complaints.

Sincerely,

Lawrence H. Noble
General Counsel



BY: Lois G. Lerner
Associate General Counsel

Enclosures

1. Complaint
2. Procedures
3. Designation of Counsel Statement

92040900865

06-8806

LAW OFFICES
WEBSTER, CHAMBERLAIN & BEAN
1747 PENNSYLVANIA AVENUE, N. W.
WASHINGTON, D. C. 20006
(202) 785-9500
FAX: (202) 835-0243

GEORGE S. WEBSTER
J. COLEMAN BEAN
ARTHUR L. HEROLD
ALAN P. BYE
EDWARD S. COLEMAN
BURNETT VAN KIRK
FRANK M. NORTHAM
GERARD P. PANARO
JOHN W. HAZARD, JR.
CHARLES M. WATKINS
HUGH R. WEBSTER
ANNE S. POPE

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
90 NOV 30 AM 3:20
OF COUNSEL
CHARLES E. CHAMBERLAIN

November 30, 1990

VIA HAND DELIVERY

James Brown, Esq.
Office of General Counsel
Federal Election Commission
999 E Street, N.W., 6th Floor
Washington, D.C. 20463

Re: MUR 3167

Dear Mr. Brown:

As the enclosed copy of the "Statement of Designation of Counsel" indicates, our firm has been retained to represent Ralph E. Reed, Jr. and the Christian Coalition in MUR 3167.

I understand that Mr. Reed has already spoken to you concerning a twenty (20) day extension of time within which to respond to the complaint and I hereby reiterate the request for an extension of time to December 24, 1990 to respond to the complaint.

I appreciate your assistance and cooperation in this matter.

Sincerely,

Frank M. Northam
Frank M. Northam

FMN:dla

cc: Mr. Ralph E. Reed, Jr.

92004090086



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

December 4, 1990

Frank M. Northam, Esq.
Webster, Chamberlain & Bean
1747 Pennsylvania Avenue, N.W.
Washington, D.C. 20006

RE: MUR 3167
Christian Coalition

Dear Mr. Northam:

This is in response to your letter dated November 30, 1990, which we received on November 30, 1990, requesting an extension until December 24, 1990, to respond to the Federal Election Commission's reason to believe findings and discovery requests in the above cited matter. After considering the circumstances presented in your letter, I have granted the requested extension. Accordingly, your response is due by the close of business on December 24, 1990.

If you have any questions, please contact Jim Brown, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lisa E. Klein
Assistant General Counsel

92040900867

LAW OFFICES
WEBSTER, CHAMBERLAIN & BEAN
1747 PENNSYLVANIA AVENUE, N. W.
WASHINGTON, D. C. 20006
(202) 785-9500
FAX: (202) 835-0243

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE SERVICES BRANCH

90DEC 24 AM 9:07

GEORGE D. WEBSTER
J. COLEMAN BEAN
ARTHUR L. HEROLD
ALAN P. DYE
BURNETT VAN KIRK
FRANK M. NORTHAM
GERARD P. PANARO
JOHN W. HAZARD, JR.
CHARLES M. WATKINS
ROBERT M. SKELTON
HUGH K. WEBSTER
ANNE S. POPE

OF COUNSEL
CHARLES E. CHAMBERLAIN
CONSULTANT
A. L. SINGLETON

December 21, 1990

Lois G. Lerner, Esq.
Associate General Counsel
Office of General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, DC 20463

Re: MUR 3167

Dear Ms. Lerner:

On behalf of the Christian Coalition and its Executive Director, Ralph Reed, we respectfully suggest that no action be taken on the complaint filed in MUR 3167 inasmuch as all of the activities of the Christian Coalition that are referenced in the complaint constitute "issue advocacy" and, therefore, are outside of the scope of the Federal Election Campaign Act ("FECA").

The complaint filed by the Democratic Congressional Campaign Committee alleges that the grassroots lobbying efforts that were undertaken by the Christian Coalition, in connection with the controversy surrounding the funding of the National Endowment for the Arts ("NEA") were violative of FECA because (1) the monies spent by the Christian Coalition constituted "independent expenditures" that were not reported to the FEC; (2) the Christian Coalition was a "political committee" that failed to file reports with the FEC; (3) the monies spent by the Christian Coalition in its grassroots lobbying campaign were in violation of 2 U.S.C. §441b; and (4) the newspaper and radio advertisements paid for by the Christian Coalition did not contain appropriate disclaimers under the FECA.

The enclosed letter from Mr. Reed (dated December 11, 1990 and addressed to Mr. Noble) sets forth in detail the overall purposes of the Christian Coalition and its involvement in the NEA financing controversy. As Mr. Reed's letter demonstrates, the Christian Coalition is a grassroots issues organization that is primarily involved in attempting to influence the passage of legislation at all levels of government.

90DEC 26 PM 12:23

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL

8
6
8
0
0
9
0
4
0
2
9

Lois G. Lerner, Esq.
December 21, 1990
Page Two

During 1990, a controversy arose as to the NEA's prior funding of art projects that resulted in the production of obscenity, child pornography and blasphemous art. This controversy came to the legislative forefront when the United States Congress had to make a decision as to the amount of funds that were to be appropriated for use by the NEA and, most importantly, the issue as to whether any restrictions should be placed on the use of such funds.

As an organization dedicated to "professing the Christian faith . . . support[ing] and uphold[ing] values and moral principles that accord with the Holy Bible . . . and promulgat[ing] and teach[ing] concern for . . . traditional family values . . .," the Christian Coalition, necessarily, had to become involved in public debate concerning the funding of the NEA and the restrictions which might be placed on the NEA's expenditure of such funds. The Christian Coalition became a participant in that public debate by making its views on the issue known through media advertising and direct mail to the citizenry. As part of that grassroots publicity campaign, the Christian Coalition notified the citizenry of the positions that had been taken by key legislators involved in the NEA appropriations bill and urged the citizenry to contact those legislators and inform them of their (the citizens') position on that bill, and the proposed amendments to the bill.

All of the media advertisements and direct mail pieces disseminated by the Christian Coalition focused solely on the issue of restricting the NEA's ability to expend funds for obscenity, child pornography, and blasphemous art, and urging citizens to contact their representatives in order to influence their votes on that issue. None of the Christian Coalition's materials, either expressly or impliedly, urge the recipients to vote for or against the election of any of the key legislators that are identified in those materials. In other words, none of the materials disseminated by the Christian Coalition contained or constituted "express advocacy" of the election or defeat of a candidate for federal office. In the absence of the Christian Coalition's having engaged in any "express advocacy" activities, those activities are not subject to FECA and none of the allegations in the complaint by the Democratic Congressional Campaign Committee can withstand scrutiny.

At least since the decision in Buckley v. Valeo, 424 U.S. 1 (1976), the courts have recognized the distinction to be drawn between "issue advocacy" and "express advocacy." In FEC v. Massachusetts Citizens for Life, Inc., 479 U.S. 238 (1986), the Supreme Court definitively held that activities of a section

92040900869

Lois G. Lerner, Esq.
December 21, 1990
Page Three

501(c)(4) organization (such as the Christian Coalition) could not be subjected to the provisions of the FECA unless those activities amounted to "express advocacy." In a similar vein, the Ninth Circuit Court of Appeals has held that the FECA's provisions relating to "independent expenditures" can only be applied where the individual or entity expending money has engaged in "express advocacy." FEC v. Furgatch, 807 F.2d 857 (9th Cir.), cert. denied, 484 U.S. 850 (1987).

As one court recently has noted: ". . . issue advocacy by a corporation cannot constitutionally be prohibited . . ." Faucher v. FEC, 743 F. Supp. 64, 69 (D. Me. 1990) (emphasis in original and citing FEC v. Massachusetts Citizens for Life). See also, FEC v. National Organization for Women, 713 F. Supp. 428, 433 (D.D.C. 1989).

As demonstrated above, the grassroots lobbying efforts of the Christian Coalition, in connection with the NEA funding controversy, are the quintessential example of "issue advocacy." The Christian Coalition publicized the issue, alerted the citizenry to its importance, urged the citizenry to make their views known to their congressional representatives, and after the vote on NEA funding (and in accord with a promise that the Christian Coalition had made in its issue campaign) advised the citizenry of how their representatives had voted and once again urged them to attempt to change the positions of those representatives who had voted contrary to the position advocated by the Christian Coalition.

In the complaint filed by the DCCC, the DCCC attempts to characterize this "issue advocacy" as "express advocacy" merely because the Christian Coalition named legislators who had key positions on the congressional committees responsible for considering NEA's funding and because some of the Christian Coalition's materials were disseminated at a time in close proximity to election day. Neither of these facts can form the basis for converting what is clearly "issue advocacy" into "express advocacy" that might subject the Christian Coalition to the provisions of the FECA.

In those materials in which the Christian Coalition named individual congressmen, it did so to enable the recipients of the materials to identify the congressman to whom they should voice their complaints concerning the congressmen's vote on NEA funding. Those materials do not exhort the recipients to vote for or against the election of the named congressman. Indeed, they do not even make reference to whether the congressman is running for election and do not identify any opponent of the congressman or that

92040900870

Lois G. Lerner, Esq.
December 21, 1990
Page Four

opponent's position on the NEA funding issue. Thus, the mere naming of the congressman does not constitute "express advocacy." See, FEC v. NOW, supra at 434, quoting and relying upon FEC v. Central Long Island Tax Reform Immediately, 616 F.2d 45, 53 (2d Cir. 1980).

The fact that some of the Christian Coalition's materials were disseminated close to election day also adds no weight to the DCCC's allegations. As noted in Mr. Reed's letter, the Christian Coalition initiated its grassroots lobbying campaign in June, 1990 and continued with it up to and through the Congress' vote on NEA funding. The timing of the lobbying campaign was entirely dependent on Congress' scheduling of votes on the NEA funding bill and (as the enclosed letter from Mr. Dykema indicates) it was Congress that delayed the final vote until shortly before election day. The Federal Election Commission has previously concluded that the proximity of the dissemination of a communication to election day will not convert a permissible communication into an impermissible one. See, e.g., MUR 1723.

From all of the foregoing, it is readily apparent that the Christian Coalition was solely engaged in "issue advocacy" and did nothing which would subject its activities to the purview of the FEC. Therefore, the Commission should take no further action in this MUR and should dismiss the complaint.

The Christian Coalition and Mr. Reed waive the confidentiality provisions under 2 U.S.C. §437g and agree to have this MUR and related proceedings made public.

Sincerely,


Frank M. Northam

FMN:dla

cc: Mr. Ralph Reed

92040900871



Christian Coalition

December 11, 1990

Mr. Lawrence M. Noble
General Counsel
Federal Election Commission
Washington, DC 20463

VIA FEDERAL EXPRESS

RE: MUR 3176

Dear Mr. Noble:

This is in response to your letter of November 14 regarding the complaint of Mr. Randy Dix of the Montana Democratic Party and Mr. Richard Bates of the Democratic Congressional Campaign Committee, and their allegations that the Christian Coalition may have violated the Federal Election Campaign Act of 1971, as amended, in mailings to our supporters and radio spots broadcast on the issue of tax-funded pornography and the National Endowment for the Arts.

Specifically, Mr. Bates and Mr. Dix charge that the Christian Coalition failed to register as a political committee with the Federal Election Commission, that it may have engaged in independent expenditure activity on behalf of particular candidates for Congress, and that its expenditures on the National Endowment for the Arts issue constituted in-kind corporate contributions to the opponents of certain incumbent members of Congress.

Each of these charges is completely false. The Christian Coalition is a grassroots issues organization under Section 501(c)(4) of the Internal Revenue Code of 1954, as amended. Its primary purpose is to influence the passage of legislation before federal, state, and local legislative and regulatory bodies, including the United States Congress.

On June 20, 1990, the Christian Coalition announced a nationwide petition drive to prevent further federal funding of obscenity, child pornography, and blasphemous art through the National Endowment for the Arts. This campaign included radio spots broadcast on approximately 300 Christian radio stations, national television spots, and full-page newspaper advertisements purchased in dozens of newspapers, including the Washington Post, USA Today, the Raleigh (NC) News and Observer, Winston-Salem Journal, Farmington (NM) Daily Times, Valdosta (GA) News-Press, and the Plano (TX) Star Courier.

Mr. Lawrence M. Noble
Federal Election Commission
RE: MUR 3176

Page 2.

We gathered 27,000 petition signatures and reached an estimated 52 million newspaper readers and television viewers during the months of June, July, August, and September, 1990. The petitions were delivered to every member of Congress on October 2, days before an expected floor vote on the NEA. The leadership of the House of Representatives had delayed a vote on reauthorization of the National Endowment for the Arts three times between the middle of July and October.

In full-page newspaper advertisements, the Christian Coalition promised members of Congress that we would "give out 100,000 copies of the Mapplethorpe and Serrano 'art' to registered voters in your district." The message was clear: we would distribute copies of the offensive photographs funded by the National Endowment for the Arts in the districts of those members of Congress who voted against common-sense restrictions on arts funding. On October 11, the day of the vote on the NEA, our staff hand-delivered another letter to every member of Congress promising that "we are preparing to distribute copies of the Mapplethorpe photographs in the districts of those members of Congress who fail to support real restrictions on NEA funding, or, in the absence of those restrictions, to abolish the agency."

Just 27 days before the election (and the timing of the vote was determined by Congress, not Christian Coalition), the House rejected restrictions on funding of pornography by a 252-176 vote. We immediately began to inform our members and supporters of the outcome of the vote.

The mailings and radio spots, therefore, were part of a five-month legislative battle over a bill to restrict funding of the National Endowment for the Arts. We had invested over \$200,000 in that effort. The entire cost for the radio spots in question came to only \$10,000. There was never any effort made to elect or defeat any candidate. There was never any communication or coordination between the Christian Coalition and any campaign manager, candidate, or officer or treasurer of a campaign. Our purpose was simply to send a clear message to Congress: the Christian Coalition was serious enough about this issue to communicate with our supporters in their districts and urge a vote in our favor on the NEA.

If the federal election law is going to prohibit expressions of constitutionally protected speech on issues based solely on the proximity to an election, then all Congress needs to do to prevent otherwise legal

92040900873

Mr. Lawrence M. Noble
Federal Election Commission
RE: MUR 3176

Page 3.

speech on a controversial piece of legislation is to schedule a vote shortly before an election. This was precisely what Representative Pat Williams (D-MT) did as chairman of the Postsecondary Education subcommittee of the House Education and Labor Committee, which has oversight over the National Endowment for the Arts.

The Christian Coalition felt it had an obligation to honor its pledge to mail examples of tax-funded pornography to the constituents of members of Congress who opposed the legislation that we supported. To have done otherwise would have undermined our credibility. Our opponents in Congress would have triumphed by default, and we would never again be taken seriously in future legislative battles on Capitol Hill. It was for this reason, not a desire to elect or defeat candidates, that the Christian Coalition distributed the material in question.

Mr. Bates alleges that my remarks on the "700 Club" on November 1 demonstrate that my real intent was to influence the outcome of federal elections. That is untrue. I was asked to be a guest on the "700 Club" as a political analyst to discuss the upcoming elections. I only observed that the arts controversy had become an issue in certain campaigns and made reference to several of those campaigns (we had not mailed our issues letters or purchased radio and newspaper advertisements in many of them).

As further evidence of that fact, on November 1 and November 3, I granted interviews to the Associated Press and the New York Times. I told the Associated Press, "Our position has nothing to do with his re-election," and I noted that "the ads don't urge votes against Williams, but only suggest they complain about the bill, which imposed no anti-obscenity restrictions on endowment funding." "Our interest is not in removing Pat Williams from office," I told the New York Times. "Our interest is in securing votes against tax-funded pornography."

In an interview with the Asheville Citizen on November 2 regarding our mailings in North Carolina, our Southern Regional Director Judy Haynes stated that "the letters were not intended to influence [Congressman James McClure] Clarke's matchup next week with Charles Taylor, but to convince Clarke to vote differently in the future."

The radio spots, television commercials, and letters asked our supporters to contact their member of Congress and urge him to oppose tax-funded pornography. They did

4
7
8
0
0
9
0
4
0
2
9

Mr. Lawrence M. Noble
Federal Election Commission
RE: MUR 3176

Page 4.

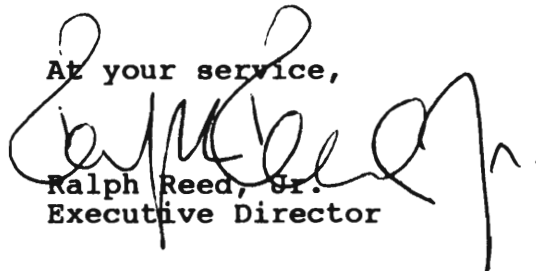
not advocate the election or defeat of any candidate. Nor did they use language on behalf of a candidate as interpreted by the Supreme Court in Buckley v. Valeo (1977), such as "campaign," "candidate," "election," "vote," or "defeat." In each case, the individual was identified as a member of Congress engaged in his legislative duties, not as a candidate for office.

The complaint filed against the Christian Coalition is a capricious nuisance. Its sole merit rests on the proximity of our communication to the elections, which is not in and of itself sufficient to find reason to investigate the matter further.

Christian Coalition is a relatively young organization dedicated to the advancement of family values in public policy. To allow a politically-motivated complaint by Democratic party officials to hamstring its future efforts on behalf of legislation would be a grave miscarriage of justice. Given the overwhelming evidence that our interest in tax-funded pornography was securing the passage of legislation by Congress, we respectfully request that no further action be taken against the Christian Coalition in this matter.

Please do not hesitate to contact me if I may be of further assistance to you on this or any other matter of mutual concern.

At your service,



Ralph Reed, Sr.
Executive Director

RR/jsr
Attachments

92040900875

(c) 1990 The New York Times, November 3, 1990

How does the group know that Mr. Williams supports pornography? He supported financing for the National Endowment for the Arts.

"Now you know where Pat Williams stands on taxes and pornography," the coalition's radio advertisements say. The ads urge people to call Mr. Williams's office and complain.

(("Our interest is not in removing Pat Williams from office," said Ralph Reed, executive director of the coalition, which is based in Chesapeake, Va. "Our interest is in securing votes against tax-funded pornography."))

The commercials note that Mr. Williams is chairman of the House subcommittee that oversees financing of the arts and that he sponsored recent legislation reauthorizing that financing in Congress.

Last week Randy Dix, a lawyer for the Montana Democratic Party, filed a complaint about the advertising with the state's Commission of Political Practices. But the commission has ruled that it has no authority over the ads unless the Federal Election Commission requires that the coalition, an independent group with no official ties to any campaign, register as a political action committee.

The Associated Press, November 1, 1990

The ads note Williams' chairmanship, and say the money authorized by his subcommittee is used to pay for photographs considered by some to be obscene.

"Now you know where Pat Williams stands on taxes and pornography," the ads say. They urge listeners to call Williams' Helena office to complain.

((Reed noted the ads don't urge votes against Williams, but only suggest they complain about the bill, which imposed no anti-obscenity restrictions on endowment funding.

"Our position on Pat Williams has nothing to do with his re-election," he said, contending the timing just before the election is coincidental.

"If we can't get (appropriate votes) from Pat Williams, we'd prefer to get that from someone else," Reed added. "But that's not for us to decide. That's up to the voters in his district."

Randy Dix, a lawyer for the Montana Democratic Party, filed a complaint over the ads last week with Dolores Colburg, Montana's commissioner of political practices.

LEXIS. NEXIS. LEXIS. NEXIS.

92040900876

TV Evangelist Mailing Anti-NEA Funding Letters

By CLARKE MORRISON
Staff Writer

A recent mailing signed by television evangelist Pat Robertson asks Western North Carolina residents to complain to U.S. Rep. James McClure Clarke about his vote for funding of the National Endowment for the Arts.

"On Oct. 11 James Clarke voted to spend your hard-earned tax dollars on pornography," said the letter, dated Oct. 26. "Let James Clarke know where you stand."

"We must stop liberals like James Clarke from supporting this outrageous assault on faith and family."

The mailing includes several controversial photographs by artists who received NEA funding, including Jesus injecting drugs into his arm and a child with genitals exposed (but covered in the

reproduced photograph).

Judy Haynes, the North Carolina representative for Robertson's group, Christian Coalition, said the letters were mailed nationwide to districts with congressmen who voted for NEA funding. "Several thousand" were mailed in Western North Carolina.

She said the letters were not intended to influence Clarke's matchup next week with Charles Taylor, but to convince Clarke to vote differently in the future.

"Pat Robertson's mailing is sort of pornographic itself. It is so wrong and unfair," said Clarke campaign manager Terry Garren. "This is a case where Mr. Robertson is being more of a politician than he is a Christian. It's just a slimy campaign tactic."

92040900877

DANA ROHRBACHER
430 DISTRICT, CALIFORNIA

WASHINGTON OFFICE:

1017 LONGWORTH HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-0842
(202) 225-3415 FAX (202) 225-0146

LONG BEACH/ORANGE COUNTY OFFICE:

4352 CEDARWOOD AVENUE, SUITE 100
LOS ALAMITOS, CA 90720-2923
(714) 761-0517 (213) 430-3811
FAX (714) 761-8836

SOUTH BAY OFFICE:

2733 PACIFIC COAST HIGHWAY, SUITE 306
TERRANCE, CA 90805-7001
(213) 328-0868 FAX (213) 328-3489



Congress of the United States
House of Representatives

December 19, 1990

COMMITTEE
SCIENCE, SPACE, AND TECHNOLOGY
SUBCOMMITTEE ON SPACE SCIENCE
AND APPLICATIONS
SUBCOMMITTEE ON TRANSPORTATION
AVIATION AND MATERIALS
DISTRICT OF COLUMBIA
VICE CHAIRMAN, SUBCOMMITTEE
ON JUDICIARY AND EDUCATION
SUBCOMMITTEE ON GOVERNMENT
OPERATIONS AND METROPOLITAN AFFAIRS
REPUBLICAN RESEARCH COMMITTEE
COCHAIRMAN, TASK FORCE ON THE
STRATEGIC DEFENSE INITIATIVE
COCHAIRMAN, TASK FORCE ON TERRORISM
AND UNCONVENTIONAL WARFARE

Ms. Lois G. Lerner
Associate General Counsel
Federal Election Commission
Washington, D.C. 20463

Dear Ms. Lerner:

I understand that you are looking into advertisements sponsored by the Christian Coalition shortly after the votes took place in Congress involving issues related to the National Endowment for the Arts.

These advertisements should be understood as part of a total lobbying campaign throughout the summer and fall of this year in support of the efforts of my boss, Congressman Dana Rohrabacher, to place restrictions on the type of projects which may be sponsored by the National Endowment for the Arts (NEA), an agency of the federal government.

Our efforts to prevent federal tax dollars from being used to produce and display child pornography, to attack religion, to desecrate the American flag, etc., began in the fall of 1989 in relation to the FY 1990 Interior Appropriations bill, when we attempted to put the House of Representatives on record in support of an amendment by Senator Jesse Helms. They continued almost without letup into 1990 as the Postsecondary Education Subcommittee of the House Committee on Education and Labor held hearings on NEA.

Ralph Reed, on behalf of the Christian Coalition, was in regular contact with our office during the summer and fall of 1990 as the issue took shape, and it became clear that the key vote would be on the Rohrabacher Amendment to H.R. 4825, the Arts, Humanities and Museums Act of 1990. The incisive letters Pat Robertson wrote to Congress as President of the Christian Coalition became part of the debate themselves, and the Christian Coalition achieved notice nationally on the issue when they bought space in national newspapers for an open letter to Congress from Pat Robertson, informing Members that if they voted to allow the NEA to continue to fund pornography, their constituents would be so informed. This letter, which became known as the "Make my day" letter, made clear that the Christian Coalition would be heard from again after the vote.

92040900878

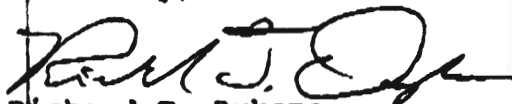
Ms. Lois G. Lerner
Federal Election Commission
December 19, 1990
Page 2

The timing of the key votes on NEA was entirely the choice of our opponents, who controlled the schedule for both committee and floor action. Originally, we were led to expect House floor votes before the August recess, but the other side continually delayed action on the issue, finally allowing the votes to occur shortly before final adjournment. That final adjournment itself came much later than expected, ending the session on October 28.

In order for any lobbying organization to be taken seriously on the Hill, it must follow through on its promises, and in the Christian Coalition's case, that meant a constituent information effort after the key votes in the districts of Members who voted against our amendment. It would be a tragedy for free speech and democracy in this country if the majority party in Congress could preclude lobbying organizations from publicizing controversial recorded votes soon after they take place, merely by scheduling such votes close to Election Day.

I hope this letter is helpful, and I ask that it be made part of any hearing record.

Sincerely,



Richard T. Dykema
Administrative Assistant and
Legislative Director to
Congressman Dana Rohrabacher

92040900879

06C 9736

LAW OFFICES
WEBSTER, CHAMBERLAIN & BEAN

1747 PENNSYLVANIA AVENUE, N. W.

WASHINGTON, D. C. 20006

(202) 785-9500

FAX: (202) 835-0243

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE SERVICES BRANCH

91 JAN -8 AM 10:47

GEORGE D. WEBSTER
J. COLEMAN BEAN
ARTHUR L. HEROLD
ALAN P. DYE
BURNETT VAN KIRK
FRANK M. NORTHAM
GERARD P. PANARO
JOHN W. HAZARD, JR.
CHARLES M. WATKINS
ROBERT M. SKELTON
HUGH K. WEBSTER
ANNE S. POPE

OF COUNSEL
CHARLES E. CHAMBERLAIN
CONSULTANT
A. L. SINGLETON

January 7, 1991

Mary Taksar, Esq.
Office of General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, DC 20463

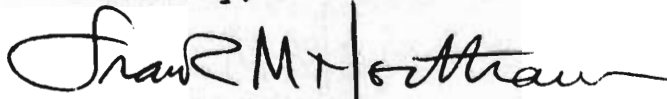
Re: MURs 3167 and 3176

Dear Ms. Taksar:

Please find enclosed a designation of counsel for MURs 3167 and 3176 indicating that I will be representing Mr. Ralph Reed and the Christian Coalition in both MURs.

As we discussed today, the response that I filed in MUR 3167 should also be considered as my clients' response to MUR 3176. Additionally, the Christian Coalition and Mr. Reed waive confidentiality in MUR 3176.

Sincerely,


Frank M. Northam

FMN:dla
Enclosure

91 JAN -8 PM 1:18

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE SERVICES BRANCH

920400880

STATEMENT OF DESIGNATION OF COUNSEL

MURS 3167 and 3176

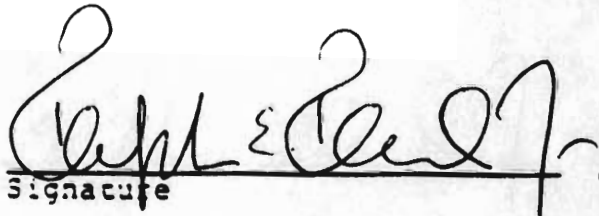
NAME OF COUNSEL: WEBSTER, CHAMBERLAIN & BEAN

ADDRESS: 1747 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, D.C. 20006

TELEPHONE: (202) 785-9500

The above-named individual is hereby designated as my
counsel and is authorized to receive any notifications and other
communications from the Commission and to act on my behalf before
the Commission.

11-29-90
Date


Signature

RESPONDENT'S NAME: RALPH E. REED, JR.

ADDRESS: CHRISTIAN COALITION
825 GREENBRIER CIRCLE, SUITE 202
CHESAPEAKE, VA 23320

HOME PHONE: _____

BUSINESS PHONE: (804) 424-2630

92040900881



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

RECEIVED
FEDERAL ELECTION COMMISSION
SECRETARY

91 JAN -9 PM 4:47

SENSITIVE

January 9, 1991

MEMORANDUM

TO: The Commission

FROM: Lawrence M. Noble
General Counsel

BY: Lois G. Lerner *192*
Associate General Counsel

SUBJECT: MUR 3167
Waiver of Confidentiality

On December 26, 1990, a waiver of confidentiality in the above-mentioned matter was received from counsel for respondents, the Christian Coalition and Ralph Reed, as executive director. The Christian Coalition and Ralph Reed are the only respondents in MUR 3167.

By making this waiver, the Christian Coalition and Ralph Reed, as executive director, have requested that the Commission not apply the confidentiality provision of 2 U.S.C. § 437g(a)(12)(A) to this matter. However, that section merely provides that any notification or investigation shall not be made public by the Commission without the written consent of the person receiving such notification or the person with respect to whom such investigation is made. By its terms, Section 437g(a)(12)(A) does not impose an affirmative duty on the Commission to publicize this matter at this time. Therefore, this Office will respond to requests for information subject to the following considerations. First, requests must be in writing. Second, such requests would be considered by the Commission subject to the provisions of the Freedom of Information Act, the Government in the Sunshine Act, and all relevant privileges which would limit or preclude the release of such requested information.

RECOMMENDATION

Approve the appropriate letter.

Attachment
Waiver

92040900882

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
Christian Coalition and) MUR 3167
Ralph Reed, as Executive)
Director.)

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on January 14, 1991, the Commission decided by a vote of 6-0 to approve the appropriate letter in MUR 3167, as recommended in the General Counsel's Memorandum dated January 9, 1991.

Commissioners Aikens, Elliott, Josefiak, McDonald, McGarry, and Thomas voted affirmatively for the decision.

Attest:

Jan. 14, 1991
Date

Marjorie W. Emmons
Marjorie W. Emmons
Secretary of the Commission

Received in the Secretariat: Wed., January 9, 1991 4:47 p.m.
Circulated to the Commission: Thurs., January 10, 1991 11:00 a.m.
Deadline for vote: Mon., January 14, 1991 11:00 a.m.

dh

92040900883



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

January 17, 1991

Frank M. Northam, Esq.
Webster, Chamberlain & Bean
1747 Pennsylvania Avenue, N.W.
Washington, D.C. 20006

RE: MUR 3167

Dear Mr. Northam:

This is in response to your letter dated December 21, 1990, wherein your clients, the Christian Coalition and Ralph Reed, as executive director, waive their right to confidentiality in the above-captioned matter, pursuant to 2 U.S.C. § 437g(a)(12)(A). The waiver is hereby acknowledged by the Federal Election Commission.

The Commission will consider requests for information concerning this matter subject to the following considerations. First, requests must be in writing. Second, such requests will be considered by the Commission subject to the provisions of the Freedom of Information Act, the Government in Sunshine Act, and all relevant privileges which limit or preclude the release of such requested information.

If you have any questions, please contact Mary Taksar, the staff member assigned to this matter, at (202) 376-5690.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

92040900884

RECEIVED
F.E.C.
SECRETARIAT

FEDERAL ELECTION COMMISSION 6 PM 4:45
999 E Street, N.W.
Washington, D.C. 20463

FIRST GENERAL COUNSEL'S REPORT

SENSITIVE

MURS # 3167 and 3176

DATE COMPLAINT RECEIVED
BY OGC:
MUR 3167- 11/5/90
MUR 3176- Original 11/16/90;
Amendment 1/22/91

DATE OF NOTIFICATION TO
RESPONDENTS:
MUR 3167- 11/14/90
MUR 3176- Original 11/28/90;
Amendment 1/28/91

STAFF MEMBER Mary Taksar

COMPLAINANTS: MUR 3167- Democratic Congressional Campaign
Committee
MUR 3176- Montana Democratic Party

RESPONDENTS: MUR 3167- Christian Coalition and Ralph Reed,
as Executive Director
MUR 3176- Christian Coalition and Ralph Reed,
as Executive Director,
American Family Association
Foundation and Don Wildmon, as
Executive Director,
Montana Family Forum and
Ron Oberlander, as State Director

RELEVANT STATUTES:

- 2 U.S.C. § 433
- 2 U.S.C. § 431(4)
- 2 U.S.C. § 431(8)(A)
- 2 U.S.C. § 431(9)(A)(i)
- 2 U.S.C. § 431(17)
- 2 U.S.C. § 431(18)
- 2 U.S.C. § 434(b)
- 2 U.S.C. § 434(c)(1)
- 2 U.S.C. § 441b
- 2 U.S.C. § 441d

INTERNAL REPORTS CHECKED: None

FEDERAL AGENCIES CHECKED: None

92040900885

I. GENERATION OF MATTER

These matters were generated by two external complaints filed against the Christian Coalition, one filed by the Democratic Congressional Campaign Committee and one filed by the Montana Democratic Party. On January 16, 1991, the Montana Democratic Party amended its complaint to include a videotape of a November 1, 1990 broadcast of Pat Robertson's 700 Club.¹ In its amendment, the Montana Democratic Party also expanded its complaint to include two groups, the American Family Association Foundation and the Montana Family Forum, which it alleged participated in mass mailings to influence the 1990 election against Congressman Williams.

II. FACTUAL AND LEGAL ANALYSIS

The Federal Election Campaign Act of 1971, as amended ("the Act"), states that it is unlawful for a corporation to make a contribution or expenditure in connection with any election for Federal office. 2 U.S.C. § 441b. For purposes of this section, a "contribution" or "expenditure" includes any direct or indirect payment, distribution, loan, advance, deposit, or gift of money, or any service, or anything of value to any candidate, campaign committee, or political party or organization in connection with any election to Federal office. 2 U.S.C. § 441b(2).

The Act also requires that a political committee file a

1. This Office notes that a transcript of the November 1, 1990 broadcast of the 700 Club was included in the original complaint.

92040900886

statement of organization within ten days after becoming a political committee. 2 U.S.C. § 433. The term "political committee" is defined as any committee, club, association, or other group of persons, including a corporation, which receives contributions aggregating in excess of \$1,000 or makes expenditures in excess of \$1,000 during a calendar year.

2 U.S.C. § 431(4). The term "contribution" means any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office. 2 U.S.C. § 431(8)(A). The term "expenditure" means any purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value made by any person for the purpose of influencing any election for Federal office. 2 U.S.C. § 431(9)(A)(i).

Political committees that are not authorized committees must report independent expenditures as well as contributions from other political committees and from persons other than political committees. 2 U.S.C. § 434(b)(4)(H). The term "independent expenditure" means an expenditure by a person expressly advocating the election or defeat of a clearly identified candidate which is made without cooperation or consultation with any candidate, or any authorized committee or agent of such candidate, and which is not made in connection with, or at the request or suggestion of, any candidate, or any authorized committee or agent of such candidate. 2 U.S.C. § 431(17). The term "clearly identified" means that the name of the candidate involved appears, a photograph or drawing of the

92040900887

candidate appears, or the identity of the candidate is apparent by unambiguous reference. 2 U.S.C. § 431(18). Any independent expenditures aggregating \$1,000 or more made after the 20th day, but more than 24 hours, before 12:01 A.M. of the day of the election must be reported within 24 hours after such expenditure is made. 11 C.F.R. § 104.4(b).

Pursuant to 2 U.S.C. § 441d(a), whenever any person makes an expenditure for the purpose of financing communications expressly advocating the election or defeat of a clearly identified candidate, the communication must include an appropriate disclaimer clearly stating the name of the person who paid for the communication and indicating whether the communication was authorized by any candidate or candidate's committee.

In Federal Election Commission v. Massachusetts Citizens for Life, 479 U.S. 238 (1986), the Supreme Court recognized an exception to the prohibition of Section 441b for certain small non-profit groups. The publication at issue in MCFL was a "Special Election Edition" newsletter which urged voters to vote for pro-life candidates in the upcoming primary election. The newsletter listed all candidates for Federal office in every voting district in Massachusetts, identified each candidate as either supporting or opposing MCFL's views, and featured photographs of 13 candidates, all of whom supported MCFL's views.

In MCFL, the Court also discussed its conclusion in Buckley that express advocacy distinguishes discussion of the issues and

92040900888

9 2 0 4 0 9 0 0 8 8 9

candidates from exhortations to vote for particular persons. It then concluded that the publication at issue in MCFL was express advocacy because the publication urged voters to vote pro-life while identifying and providing photographs of specific pro-life candidates. In usual circumstances, the publication costs would be considered an expenditure constituting a prohibited corporate expenditure. However, the Court concluded that the prohibition on corporate expenditures was unconstitutional as it applied to MCFL based on the following characteristics possessed by MCFL: it was formed to disseminate political ideas not to amass capital; it had no shareholders or other persons having a claim on assets or earnings; it obtained funds from persons who made contributions to further the organization's political purpose; it was not established by a business corporation or labor union; and it was MCFL's policy not to accept contributions from business corporations and labor unions.

In Sandra Faucher and Maine Right to Life Committee, Inc. v. FEC, 743 F. Supp. 64 (D.Me. 1990), the court held that 11 C.F.R. § 114.4(b)(5) exceeded the FEC's authority insofar as it prohibited issue advocacy by corporations. The court noted that the statutory basis for this regulation is 2 U.S.C. § 441b and that on the basis of Buckley v. Valeo, 424 U.S. 1, as construed in MCFL, the Supreme Court explicitly limited the scope of this prohibition to express advocacy of the election or defeat of clearly identified candidates. The Court of Appeals affirmed the district court decision and held that corporations are prohibited from using treasury funds to make expenditures

independent of a candidate only if the expenditures constitute express advocacy. Faucher v. FEC, 928 F.2d 468 (1st Cir. 1991). After the recent denial of certiorari in Faucher, the Commission has chosen to accept the position that under Section 441b, an independent expenditure must constitute express advocacy to be prohibited. Faucher v. FEC, 928 F.2d 468 (1st Cir. 1991), cert. denied, 112 S. Ct. 79 (1991).

This Office believes that the standard for express advocacy used by the Furgatch court is an appropriate standard to use when determining whether a communication is express advocacy. In Furgatch, the Ninth Circuit Court of Appeals stated that "speech need not include any of the words listed in Buckley to be express advocacy under the Act, but it must, when read as a whole, and with limited reference to external events, be susceptible of no other reasonable interpretation but as an exhortation to vote for or against a specific candidate." Furgatch at 864. Additionally, the Court stated that "speech cannot be 'express advocacy of the election or defeat of a clearly identified candidate' when reasonable minds could differ as to whether it encourages a vote for or against a candidate or encourages the reader to take some other kind of action." Id.

A. The Christian Coalition and Ralph Reed, as Executive Director

1. Facts

Two similar complaints were filed against the Christian Coalition. On November 5, 1990, the Democratic Congressional Campaign Committee ("DCCC") filed its complaint alleging that the

92040900890

Christian Coalition had been purchasing radio advertisements and sending direct mail into the districts of at least four members of the U.S. House of Representatives in order to influence the 1990 election.² See Attachment 1. On November 16, 1990, the Montana Democratic Party filed a complaint alleging that the Christian Coalition made independent expenditures when it purchased radio advertisements attacking Congressman Pat Williams and then failed to report these expenditures to the Commission. See Attachment 2.

The complaint filed by the DCCC alleges that the Christian Coalition purchased radio advertisements and sent direct mail into the districts of three Congressmen and one Congresswoman which were aimed at promoting the defeat of these individuals. The DCCC states that each radio advertisement or letter specifically named Congressman Jones, Congressman Stalling, Congressman Williams, and Congresswoman Unsoeld and then attacked various votes that these individuals made during their tenure in Congress.

The DCCC alleges that the Christian Coalition violated the Act's prohibition on corporate expenditures if, in fact, it is incorporated.³ The complaint alleges that even if the Christian Coalition is not incorporated, it still violated the Act by failing to register with the Commission and to report the thousands of dollars in expenditures which it spent for

2. These four members, Congressman Ben Jones of Georgia, Congresswoman Jolene Unsoeld of Washington, Congressman Richard Stallings of Idaho, and Congressman Pat Williams of Montana ran for re-election in 1990.

3. According to the Secretary of State's Office in Virginia, the Christian Coalition was incorporated in Virginia on October 4, 1989.

92040900891

advertisements and mailings. In addition, the complaint alleges that the disclaimer is deficient in clearly identifying the entity which purchased the advertising time.

The DCCC enclosed a script for the radio advertisement regarding Congressman Pat Williams which was paid for by the Christian Coalition. The script reads:

People in the state of Montana work hard for their money, but Pat Williams wants to take it away by raising our taxes. And do you know why he wants to raise our taxes? He wants to raise our taxes to pay for pornography. It's shocking but true. Pat Williams chairs the committee that voted to give one hundred eighty million dollars of our taxes to the National Endowment for the Arts, to pay for photographs showing:

- a crucifix in a jar of urine;
- two men having sexual intercourse;
- a four year old girl with her genitals exposed.

All this paid for by our taxes. And then, Pat Williams voted to raise our taxes one hundred forty nine billion dollars over the next five years, or two thousand four hundred dollars for every family of four in America. You know where Pat Williams stands on taxes and pornography. Now, let him know where you stand. Call Pat Williams today at 443-7878 - that's 443-7878- and tell him you're against his vote for higher taxes and pornography.

Paid for by the Christian Coalition.

The DCCC also alleges that the Christian Coalition sent a newsletter dated October 26, 1990 promoting the defeat of Congressmen Williams, Stallings, and Jones and Congresswoman Unsoeld to individuals in their districts. The DCCC included a letter which specifically refers to Congressman Jones

92040900892

in its complaint. The letter states that:

[o]n October 11 Ben Jones voted to spend your hard-earned tax dollars on pornography.

That's right. He voted to give \$180 million of your taxes to the National Endowment for the Arts to pay for photographs depicting:

- Jesus Christ immersed in a vat of urine;
- Homosexuals engaged in sexual intercourse;
- A 4-year old girl with her genitals exposed;
- Jesus Christ shooting heroin in his arm. . . .

And then Ben Jones voted to raise taxes \$149 billion over the next five years, or an average of \$2500 a year for every family of four in America.

Ben Jones voted against an amendment offered by Congressman Dana Rohrabacher (R-CA) that would have prohibited the NEA from spending your taxes on obscenity, child pornography, and blasphemy. I am proud to say that 60 brave Democrats voted for this amendment. But Ben Jones and 57 Republicans voted against our position, causing the amendment to fail. . . .

Now you know where Ben Jones stands on tax-funded pornography.

Let Ben Jones know where you stand.

Call him today at 371-9910 and tell him you are against his votes to raise taxes and spend your dollars on pornography. . . .

I need your help to air radio spots in your community to inform Ben Jones's constituents so that they will tell him to oppose obscenity and blasphemy. Please send your best gift of \$50, \$35, or \$25 today.

We must stop liberals like Ben Jones from supporting this outrageous assault on faith and family.

As noted earlier, the subject matters of the two complaints are the radio advertisements and the newsletters. The DCCC also enclosed the radio transcript from the November 1, 1990 broadcast of the "700 Club" in the complaint. The DCCC stated that it

92040900893

enclosed this transcript because it discussed the mailings and advertisements. It appears that the DCCC believed that the transcript made it clear that the mailings were made for the purpose of influencing certain federal elections. See Attachment 1, page 2. This Office notes that although the broadcast may raise some questions as to the purpose and intent of the radio advertisements and the newsletters, it does not alter the analysis of the question of express advocacy regarding the radio advertisements and the newsletters. The transcript of the broadcast reads as follows:

ROBERTSON: Ralph Reed is here with us from the Christian Coalition. The Christian Coalition is just up and running.

Ralph, you have some agenda items too. What is the Coalition doing?

REED: Well right now Pat we're distributing about four million voter guides in seven states to inform Christians where the candidates stand on the issues so that they can get out and vote.

If you look at the '88 election cycle, for example, there were eight-nine million votes cast for president. Twenty-five million people self identified themselves in network exit polls as either evangelicals, born again or pro-life Catholics.

If we could get that kind of a turnout again, we can see people like Jesse Helms and Tom Tauke win.

ROBERTSON: Are you sending out copies of that salacious, so-called art, the Mapplethorpe photographs?

REED: Well, yea we are (giggle). With some of these Congressmen, you read them their record back to them and they say that's a distortion, you know.

We're sending out the Mapplethorpe photographs, as we promised we would into seven states. And there are a number of congressmen that are in serious trouble because of that issue.

One of them is Ben Jones, a liberal freshman Democrat from Atlanta. Another is Jolene Unsoeld, who you mentioned in

92040900894

your piece. Another one is Richard Stallings who is in Idaho too.

So there are some congressmen in real trouble.

ROBERTSON: You're not going to tell the media who the targets of the hit list are?

REED: We want them to know with the rest of the American people, the day after the election when some of these members have career changes. (Both laughing).

ROBERTSON: But the Coalition essentially warned Congress that if they voted to refund the NEA, that there would be retribution.

REED: Well that's correct and we think that the taxpayers should be allowed to call the tune. And when their taxes are being used to fund homoerotic art, the voters in those districts have a right to know what their taxes are being used for.

We're also doing, by the way, thousand of get out the vote phone calls in North Carolina so Christians will get to the polls next Tuesday.

ROBERTSON: So that kind of activity is with the Coalition. How many states is the coalition in?

REED: We now have chapters operating, Pat, about three hundred chapters operating in forty states all over the country.

ROBERTSON: This can be a very powerful political force.

REED: There's no question about it. As you have so eloquently said on this program if pro-family Roman Catholics and evangelicals will unite at the ballot box, there is almost no candidate anywhere in the country that we can't elect.

ROBERTSON: Where could somebody get in touch with you if they want to work more closely with the coalition?

REED: Well they can give me a call here in Chesapeake, Virginia at (804) 424-2630. And we will let them know how they can get their hands on those voter guides or we'll be glad to get them more information.

ROBERTSON: Well that's a tremendous service.

The DCCC concludes its complaint by stating that it cannot be

5
9
8
0
0
9
4
0
C
2
9

contested that the advertisements and letters were aimed at promoting the defeat of Congressmen Williams, Jones, and Stallings, and Congresswoman Unsoeld. The DCCC notes that the timing of the letters and radio advertisements were just prior to an election. The DCCC states that although the Christian Coalition has carefully avoided the buzzwords "defeat" or "elect," there can be no other purpose intended by the timing of these advertisements.

In its complaint, the Montana Democratic Party alleged that the Christian Coalition purchased radio advertisements attacking Congressman Williams. The complainant alleged that the advertisements which ran on radio stations in Congressman Williams' district from October 29th through November 5th were independent expenditures. The radio advertisement in question is the same advertisement which is part of the complaint filed by the DCCC. See page 8 for the text of the advertisement.

According to the complainant, the Christian Coalition was required to register and file disclosure reports with the Commission because it made independent expenditures when it purchased these advertisements. The complainant also alleges that the disclaimers in the advertisements were not adequate under the FECA.

In the response to the complaint, counsel for the Christian

92040900896

Coalition⁴ requests that no further action be taken in this matter because all of the activities referenced in the complaint constitute issue advocacy and are, therefore, outside the scope of the FECA. See Attachments 3, 8, and 9. Counsel references a December 11, 1990 letter to the Commission from Ralph Reed, Executive Director of the Christian Coalition, and has attached Mr. Reed's letter to the response.⁵

In his December 11, 1990 letter, Mr. Reed states that the allegations in the DCCC and Montana Democratic Party complaints are completely false. Mr. Reed states that the primary purpose of the Christian Coalition is to influence the passage of legislation before federal, state, and local legislative and regulatory bodies, including Congress. He indicates that on June 20, 1990, the Christian Coalition announced a "nationwide petition drive to prevent further federal funding of obscenity, child pornography, and blasphemous art through the National Endowment for the Arts." See Attachment 3, page 5. Mr. Reed describes this campaign as consisting of radio spots broadcast on 300 Christian radio stations, television spots, and full-page advertisements purchased in dozen of newspapers including the Washington Post, USA Today, News and Observer (Raleigh, NC), Winston-Salem Journal, Daily Times (Farmington, NM), News-Press (Valdosta, GA), and Star

4. Counsel is representing the Christian Coalition and Ralph Reed, as Executive Director, in MUR 3167 and MUR 3176. Counsel indicated in writing that the response submitted in MUR 3167 was to serve as a response in MUR 3176.

5. Ralph Reed responded to the complaint with this letter prior to being represented by counsel.

92040900897

Courier (Plano, TX). He also indicates that the Christian Coalition gathered 27,000 petition signatures and reached 52 million newspaper readers and television viewers from June through September and that the petitions were delivered to members of Congress on October 2, 1990, days before an expected vote on the NEA.⁶ See Attachment 3, page 6.

According to Mr. Reed, Christian Coalition's full-page advertisements promised members of Congress that it would "give out 100,000 copies of the Mapplethorpe and Serrano 'art' to registered voters in your district."⁷ He states that the message was clear that the Christian Coalition would distribute copies of offensive photographs funded by the National Endowment for the Arts in the districts of those members of Congress who voted against restrictions on arts funding. He indicates that on October 11, 1990, the date for the vote on NEA, Christian Coalition staff hand-delivered another letter to every member of Congress which stated "we are preparing to distribute copies of Mapplethorpe photographs in the districts of those members of Congress who fail to support real restrictions on NEA funding, or, in the absence of those restrictions, to abolish the agency." See Attachment 3, page 6.

Mr. Reed notes that 27 days before the election, the House rejected restrictions on funding of pornography by a vote of 252

6. Mr. Reed makes no mention of the voter guides to which he referred in the November 1, 1990 broadcast of the "700 Club" on CBN.

7. This Office has not seen copies of these advertisements.

to 176.⁸ He indicates that the Christian Coalition immediately began informing Christian Coalition members and supporters of the outcome of the vote.⁹

According to Mr. Reed, the mailings and the radio spots were part of a five-month legislative battle over a bill to restrict funding of the NEA. Mr. Reed states that the Christian Coalition invested over \$200,000 into the entire effort and that the radio spots in question cost \$10,000. He indicates that the Christian Coalition never made an effort to elect or defeat any candidate and that there was never any communication between the Christian Coalition and any candidate, treasurer, campaign manager, or officer of a campaign. Mr. Reed states that "[o]ur purpose was simply to send a clear message to Congress: the Christian Coalition was serious enough about this issue to communicate with our supporters in their districts and urge a vote in our favor on the NEA." See Attachment 3, page 6.

Mr. Reed also states that "Mr. Bates alleges that my remarks on the '700 Club' on November 1 demonstrate that my real intent was to influence the outcome of federal elections. That is untrue. I was asked to be a guest on the '700 Club' as a political analyst to discuss the upcoming elections. I only observed that the arts controversy had become an issue in certain campaigns and made reference to several of those campaigns (we had

8. The House vote took place on October 15, 1990 and the Senate vote took place on October 24, 1990.

9. It is unclear to this Office exactly how this was done and what publications or newsletters the Christian Coalition might have used to inform members and supporters.

92040900899

not mailed our issue letters or purchased radio and newspaper advertisements in many of them)." See Attachment 3, page 7.

Mr. Reed then refers to two interviews which he gave near election time, one with the Associated Press on November 1, 1990 and one with the New York Times on November 3, 1990. In his interview with the Associated Press, Mr. Reed stated that "[o]ur position has nothing to do with his [Congressman Williams] re-election" and explained that "the ads don't urge votes against Williams, but only suggest they complain about the bill. . . ." In his interview with the New York Times, Mr. Reed stated that "[o]ur interest is not in removing Pat Williams from office. . . . Our interest is in securing votes against tax-funded pornography." See Attachment 3, page 7.

Mr. Reed concludes his letter by stating that the radio spots, television commercials, and letters merely asked Christian Coalition supporters to contact their member of Congress and urged them to oppose tax-funded pornography.¹⁰ He also indicates that the radio spots, commercials, and letters neither advocated the election or defeat of any candidate nor used language such as "election," "defeat," or "vote" which was identified in Buckley v. Valeo, 424 U.S. 1 (1986), as express advocacy. See Attachment 3, pages 7-8.

In counsel's response, he reiterates many of the statements

10. This Office notes that in his letter responding to the complaint, Mr. Reed made no reference to the voter guides which the Christian Coalition prepared and distributed. However, in his November 1, 1990 interview on the "700 Club," he stated that the Christian Coalition was distributing four million voter guides in seven districts. See page 10.

92040900900

made by Mr. Reed in his December 11, 1990 letter. Counsel states that as an organization dedicated to "'professing the Christian faith . . . support[ing] and uphold[ing] values and moral principles that accord with the Holy Bible . . . and promulgat[ing] and teach[ing] concern for . . . traditional family values . . . ,'" the Christian Coalition became involved in the public debate concerning the funding of the NEA. Counsel also indicates that the Christian Coalition became a participant in the public debate by making its views on the issue known through media advertising and direct mail to the citizenry. See Attachment 3, page 2.

According to counsel, the Christian Coalition notified the citizenry of the positions that had been taken by key legislators involved in the NEA appropriations bill and urged the citizenry to contact those legislators and inform the legislators of the citizens' positions on that bill. Counsel states that all of the media advertisements and direct mail pieces disseminated by the Christian Coalition focused solely on the issue of restricting the NEA's ability to expend funds for obscenity, child pornography, and blasphemous art, and urging citizens to contact their representatives in order to influence their votes on that issue. Counsel states that none of the Christian Coalition's materials, either expressly or impliedly, urge the recipients to vote for or against the election of any of the key legislators that are identified in those materials. Counsel argues that none of the materials disseminated constituted "express advocacy" of the election or defeat of a candidate for Federal office. Counsel

92040900901

states that in the absence of the Christian Coalition's having engaged in any "express advocacy" activities, those activities are not subject to the FECA. See Attachment 3, page 2.

Counsel further states that since Buckley, the courts have recognized a distinction between "issue advocacy" and "express advocacy." Counsel indicates that in FEC v. Massachusetts Citizens for Life, Inc., 479 U.S. 238 (1986), the Supreme Court definitively held that activities of a section 501(c)(4) organization (such as Christian Coalition) could not be subjected to the provisions of the FECA unless those activities amounted to "express advocacy."¹¹ Counsel paraphrases language from FEC v. Furgatch, 807 F.2d 857 (9th Cir. 1987), which states that FEC provisions regarding independent expenditures can only be applied where the individual or entity expending money has engaged in express advocacy. Id. at 860. Counsel also quotes Faucher v. FEC, 743 F. Supp. 64 (D.Me. 1990), in which the court stated "issue advocacy by a corporation cannot constitutionally be prohibited. . . ." Id. at 69 (emphasis in original and citing FEC v. Massachusetts Citizens for Life, 479 U.S. 238 (1986)). See Attachment 3, pages 2-3.

11. Counsel concludes that because the Christian Coalition is a section 501(c)(4) organization, its activities are not subject to the FECA. Counsel fails to note that the Supreme Court based its decision that the prohibition on corporate expenditures as it related to MCFL was unconstitutional because of the specific characteristics possessed by MCFL. Counsel does not indicate whether the Christian Coalition possesses any or all of the characteristics identified by the Supreme Court in MCFL.

92040900902

According to counsel, the grassroots lobbying¹² of the Christian Coalition in connection with NEA funding is an example of issue advocacy. Counsel states that the Christian Coalition publicized the issue, alerted the citizenry to its importance, urged the citizenry to make their views known to their congressional representatives and, after the vote, notified the citizenry as to how their representatives voted, and again urged them to attempt to change the positions of those representatives who had voted contrary to the Coalition's position. Counsel states that in the materials in which the Christian Coalition

12. This Office notes that for tax purposes, "[a] grass roots lobbying communication is any attempt to influence any legislation through an attempt to affect the opinions of the general public of any segment thereof." Treas. Reg. §56.4911(b)(2). A communication is treated as a grass roots lobbying communication under §56.4911-2(b)(2) if the communication refers to specific legislation, reflects a view on such legislation, and encourages the recipient of the communication to take action with respect to such legislation. Id. The Treasury regulations state that encouraging a recipient to take action means that the communication: states that the recipient should contact a legislator or an employee of a legislative body, or should contact any other government official or employee who may participate in the formulation of legislation (but only if the principal purpose of urging contact with the government official or employee is to influence legislation); states the address, telephone number, or similar information of a legislator or an employee of a legislative body; provides a petition, tear-off postcard or similar material for the recipient to communicate with a legislator or an employee of a legislative body, or with any government official or employee who may participate in the formulation of the legislation (but only if the principal purpose of so facilitating contact with the government official or employee is to influence legislation); or specifically identifies one or more legislators who will vote on the legislation as opposing the communication's view with respect to the legislation, as being undecided with respect to the legislation; as being the recipient's representative in the legislature, or as being a member of the legislative committee or subcommittee that will consider the legislation.

92040900903

named individual congressmen, it did so to enable the recipients of the materials to identify the congressmen to whom they should voice their complaints concerning the congressman's vote on NEA funding. Counsel indicates that the materials do not exhort the recipients to vote for or against the election of the named congressman, do not make reference to whether the congressman is running for election, and do not identify any opponent of the congressman or an opponent's position on NEA funding issue. Counsel argues that the mere naming of the congressman does not constitute "express advocacy." See Attachment 3, pages 3-4.

Counsel also argues that the fact that some of the Christian Coalition's materials were disseminated close to the election day adds no weight to the DCCC's allegations. Counsel states that the Christian Coalition initiated its grassroots lobbying campaign in June 1990 and continued with it through Congress' vote on NEA funding. Counsel states that the timing of the lobbying campaign was entirely dependent on Congress' scheduling of voting on the NEA funding bill. Counsel has enclosed a letter from Mr. Richard Dykema of Congressman Dana Rohrabacher's office which states that it was Congress that delayed the final vote on NEA funding until shortly before election day. Counsel cites MUR 1723 and states that the Commission has previously concluded that the proximity of the dissemination of a communication to election day will not convert a permissible communication into an impermissible communication. See Attachment 3, page 4.

2. Legal Analysis

The alleged violations regarding these respondents involve a

9204090904

radio advertisement and an October 26, 1990 newsletter. See pages 8-9 for the text. This Office notes that on their face, the radio advertisements and newsletters do not appear to expressly advocate the election or defeat of a federal candidate.

However, this Office notes that the timing of the radio advertisement and the October 26th newsletter make it questionable as to whether these communications were actually for the purpose of influencing the House vote on NEA funding. As indicated earlier, the House vote on NEA funding was on October 15, 1990, while the radio advertisement was broadcast from October 29th through November 5th, just days before the election, and the newsletter distributed on October 26th. If their purpose was to influence the vote on NEA funding, it does not seem logical that the advertisement be broadcast and the newsletter distributed after the House vote on NEA funding. However, this Office notes that timing alone is not sufficient to make a communication express advocacy.

A. Newsletter

The October 26, 1990 newsletter which was allegedly sent to individuals in the districts of Congressmen Williams, Stallings, and Jones and Congresswoman Unsoeld states that the respective Representative voted to spend tax dollars on pornography by voting to give \$180 million of taxes to the NEA. The newsletter identified the photographs as those which depict Jesus Christ immersed in a vat of urine, homosexuals engaged in sexual intercourse, a four year old girl with her genitals exposed, and Jesus Christ shooting heroin in his arm. The newsletter then

92040900905

states that the respective Representative voted against the amendment offered to prohibit the NEA from spending tax dollars on obscenity, child pornography, and blasphemy. The newsletter then encourages individuals to let the respective Congressman or Congresswoman know where that individual stands on tax-funded pornography by calling that Representative at the telephone number provided. In closing, the newsletter states "[w]e must stop liberals like [respective Representative] . . . from supporting this outrageous assault on faith and family."

This Office notes that the October 26, 1990 newsletter encourages voters to let their respective Representative know where they stand on this issue and closes with a call to action, "[w]e must stop liberals like [respective Representative] . . . from supporting this outrageous assault on faith and family."

This Office notes that the call to action appears to suggest action other than telephoning the respective Representative, as is suggested in the newsletter. However, in our view, after reading the entire newsletter, reasonable minds could differ as to whether the newsletter and the specific statement that "[w]e must stop liberals like [respective Representative] from . . . supporting this outrageous assault on faith and family" is encouragement to vote the respective Representative out of office. This Office also notes that the newsletter makes no mention to the candidacy of the respective Representative or to any election.

It is a close call as to whether the October 26th newsletter expressly advocates the election or defeat of a Federal candidate. However, based on the foregoing, this Office concludes that the

92040900906

newsletter does not expressly advocate the election or defeat of a Federal candidate.

B. Radio Advertisement

The radio advertisement which was broadcast throughout Congressman Williams' district identifies Congressman Williams as chairman of the committee that oversees funding for the NEA. The advertisement states that Congressman Williams is raising taxes in order to pay for pornography such as photographs showing a crucifix in a jar of urine, two men having sexual intercourse, and a four year old girl with her genitals exposed. The advertisement also states that this art was paid for with taxpayer dollars. The advertisement closes by urging individuals to call Congressman Williams at a number provided in order to let him know where they stood on taxes and pornography. A statement was then made that the advertisement was paid for by the Christian Coalition.

This Office notes that the radio advertisement encourages voters to write to Congressman Williams in order to let him know where they stand on this issue. The radio advertisement makes no mention to the candidacy of Congressman Williams or to any election. As noted earlier, the fact that the radio advertisement was broadcast after the House vote on NEA funding and up until a few days before the election raises some question as to the purpose and intent of the radio advertisement; however, timing alone is insufficient to make a communication express advocacy. When read as a whole, the communication must be susceptible of no other reasonable interpretation but as an exhortation to vote for or against a specific candidate. Furgatch at 864. After reading

92040900907

the entire advertisement, this Office concludes that reasonable minds could differ as to whether the communication encourages a vote for or against Congressman Williams.

Based on the foregoing, this Office is recommending that the Commission find no reason to believe that the Christian Coalition and Ralph Reed, as Executive Director, violated 2 U.S.C. § 441b. As the communications themselves do not expressly advocate the election or defeat of a Federal candidate, this Office also recommends that the Commission find no reason to believe that the Christian Coalition and Ralph Reed, as Executive Director, violated 2 U.S.C. § 441d by failing to include an adequate disclaimer.

B. American Family Association Foundation

1. Facts

On January 16, 1991, the Montana Democratic Party filed an amendment to the original complaint received on November 16, 1990. According to the amendment, American Family Association Foundation ("AFAF") participated in mass mailings to influence the 1990 election. See Attachment 4, page 1. The amendment states that American Family Association Foundation's mailings specifically mention Congressman Pat Williams and were mailed to thousands of voters in his district. The Montana Democratic Party alleges that AFAF's mailing activities constitute independent expenditures opposing the election of Congressman Pat Williams. The Montana Democratic Party provided as exhibits three AFAF publications, one newsletter and two information sheets which were sent to voters in Congressman Pat Williams' district a week before the election.

92040900908

See Attachment 4, pages 3-7. The following is a discussion of the contents of the newsletter and information sheets.

The newsletter is a letter on AFAF letterhead which is addressed to "Dear Friend of the Family" and signed by Donald Wildmon, Executive Director of AFAF. See Attachment 4, pages 3-4. The letter indicates that the National Endowment for the Arts (NEA), a government agency, is using taxpayer dollars to pay artists to create pornographic and anti-Christian art. It then states that "[s]ome members of Congress openly and wholeheartedly approve of this abusive waste of taxpayer dollars" and that "[t]hese Congressmen, led by Congressman Pat Williams of Montana, are attacking those who oppose the NEA's use of your tax dollars to fund hateful, obscene and blasphemous 'art.'" See Attachment 4, pages 3-4.

The letter also states that Congressman Williams, the chairman of the House committee which oversees NEA, "calls those who oppose being forced to fund pornographic and anti-Christian 'art' with their tax dollars 'right-wing, evangelical cuckoos.'" The letter then asks taxpayers if they like paying for works of art which show Jesus nailed to the cross in a jar of urine, depict Jesus as a drug addict complete with syringe in his arm, have a play featuring Jesus as a foul-mouthed bigot, feature homosexual men performing sodomy, and feature children in sexual poses. The letter then urges taxpayers to "[w]rite Congressman Williams. Tell him you oppose the NEA's use of your tax dollars to fund pornographic and anti-Christian 'art.' And tell him you resent his calling those who oppose government funded pornography

92040900909

'right-wing, evangelical cuckoos.'" See Attachment 4, pages 3-4.

According to the letter, as chairman of the House committee which oversees NEA, Congressman Williams could stop government funding of this so-called art almost single-handedly. The letter states that Congressman Williams refuses to do this because he supports the NEA's use of tax dollars to pay for such "art." The letter again urges taxpayers to contact Congressman Williams because "Congressman Williams thinks that people in Montana also support spending tax dollars to support this kind of 'art.'"

Then AFAF encourages taxpayers to do the following:

Write Congressman Williams. Tell him you're upset that he would arrogantly classify you as some nut just because you don't like how the NEA spends your tax dollars.

Tell him he needs to be more sensitive to the needs and beliefs of the millions of Christians in the U.S.

Tell him he needs to be more respectful of the people of this country like you who work hard just to make ends meet.

Tell him he needs to be more in touch with real, down-to-earth people, and less concerned about an "elite" vocal minority "arts" crowd.

This is your chance to tell Congressman Williams you resent his calling those who oppose spending tax dollars to fund pornography and anti-Christian bigotry "right-wing, evangelical cuckoos. . . ."

[I]f enough of us act together, we can, perhaps, convince Congressman Williams to change his support for government funded pornography and anti-Christian bigotry.

The letter closes with "write Congressman Williams. And use the enclosed sheet to help convince others to write the Congressman too." See Attachment 4, pages 3-4.

AFAF enclosed an information sheet with the above-mentioned

92040900910

letter. The information sheet entitled "Your Tax Dollars Helped Pay For These Images" displays smaller images of larger artworks which were exhibited at Universities Galleries at Illinois State University. See Attachment 4, page 5. The exhibit was partly funded through a \$15,000 NEA award.

This information sheet states that for years, efforts have been made to prevent the NEA from funding sexually explicit and blasphemous imagery. Many of the statements made in the information sheet are statements similar to those made in the newsletter noted earlier. The information sheet also states that "because the NEA has friends such as Congressman Williams in key positions in Congress, it has been unwilling to stop funding pornography and anti-Christian bigotry supported by the NEA." It closed with the statement "[i]f you disagree with Congressman Williams and don't think that you should be forced to pay for this kind of 'artistic' imagery with your tax dollars, write Congressman Williams. His address is House of Representatives, Washington D.C. 20515."

AFAP also published and distributed an information sheet entitled "Is This How You Want Your Tax Dollars Spent?" See Attachment 4, pages 6-7. In this information sheet, AFAP provides descriptive examples of the type of art or the works of art given awards by the NEA. This sheet refers to Congressman Williams in the first two paragraphs. In regard to Congressman Williams, the information sheet states that "[t]his is the kind of 'art' Congressman Pat Williams (D-MT), chairman of the NEA House oversight committee, feels taxpayers should be forced to pay for.

92040900911

Congressman Williams has been a leading spokesman for the use of tax money to fund the kind of 'art' described on this sheet."

In response to the complaint, AFAF states that the mailings which it distributed and the activities in which it engages do not fall within the category of activities which the FECA regulates.¹³ See Attachment 5. AFAF states that it is a non-profit organization whose purpose is to "educate the American public and the elected officials to the negative effects various decisions have upon the family and to promote responsiveness to the needs of the traditional American family."¹⁴ See Attachment 5, page 2. AFAF states that it relies on grassroots advocacy and citizen awareness of the workings of the democratic process to make its constituency heard. AFAF indicates that it encourages individuals, through mailings and other communications, to make elected officials aware of concerns and needs.

AFAF notes that in October 1990, it sent an information packet concerning the funding of the NEA to various individuals in

13. AFAF is represented by in-house counsel.

14. According to the Encyclopedia of Associations (25th Ed. 1991), AFAF was founded in 1977 and was formerly called the National Federation for Decency. The description of AFAF provided states:

[f]osters "the biblical ethic of decency in American society with primary emphasis on television." Urges viewers to write letters to networks and sponsors, protesting shows that promote "violence, immorality, profanity, and vulgarity" and encouraging the airing of programs that are "clean, constructive, wholesome and family oriented." Compiles statistics on broadcasts of scenes involving television sex, profanity, and alcoholic beverage use. Maintains speakers' bureaus.

92040900912

Montana. AFAF indicates that this was one of several mailings and public statements made by AFAF and its sister organization, American Family Association, Inc., made regarding NEA funding. This particular mailing consisted of a cover letter, two information sheets, and a post card addressed to Congressman Williams along with a reply memo.

AFAF states that the existence of an election or Congressman Williams' campaign for re-election were not the subject, implicit or explicit, of the mailing. AFAF cites Federal Election Commission v. Central Long Island Tax Reform Immediately Committee (CLITRIM), 616 F.2d 45 (1980), as support for its position that AFAF's activity is not prohibited by the FECA because the publications which are the object of the Montana Democratic Party's complaint do not refer to, expressly or impliedly, any forthcoming election. AFAF notes that the mailing in question included a card for the recipient to send to Congressman Williams and the specific request that recipients write to Congressman Williams and "[t]ell him you oppose the NEA's use of your tax dollars to fund pornographic and anti-Christian 'art.'" AFAF indicates that the only action called for by its mailing is one of writing to Congressman Williams. AFAF states that the mailing does not call for the election or defeat of Congressman Williams or any other member of Congress. Quoting CLITRIM, AFAF states that in its mailing, there "is no reference anywhere in the [mailing] to the congressman's party, to whether he is running for re-election, to the existence of an election or the act of voting in any election; nor is there anything

92040900913

approaching an unambiguous statement in favor of or against the election of Congressman [Williams]." (quoting CLITRIM at 53). See Attachment 5, page 8.

AFAF also states that Congressman Williams has placed himself in the midst of a public controversy concerning the funding of the NEA. AFAF notes that the controversy has been ongoing since 1989 and that the controversy did not and should not be expected to take a hiatus during the time which members of Congress were in an election contest. AFAF concludes its response by stating that the mailing was an attempt to influence the voting record of Congressman Williams with respect to the funding of NEA and that a mailing such as this one is exactly the type of advocacy that AFAF may use to influence legislation. AFAF reiterates that there was no attempt, express or implied, to oppose Congressman Williams in any future election.

2. Legal Analysis

The newsletter and two information sheets published by AFAF specifically mention Congressman Williams and his voting record regarding NEA funding. However, neither the newsletter nor the information sheets make any reference to Congressman Williams' candidacy or to an upcoming election or expressly advocate his election or defeat. Although the newsletter and information sheets were mailed close to the election, the mailing was also in proximity to the vote on NEA funding. We note that this mailing is consistent with AFAF's policy of opposing pornography.

Based on the foregoing, this Office recommends that the Commission find no reason to believe that the American Family

92040900914

Association Foundation, an incorporated entity, and Don Wildmon, as Executive Director, violated 2 U.S.C. § 441b by making prohibited corporate expenditures.

C. Montana Family Forum

1. Facts

The amendment to the complaint filed by the Montana Democratic Party also included the Montana Family Forum ("MFF") as a respondent. See Attachment 4. According to this amendment, MFF participated in mass mailings to influence the 1990 election against Congressman Williams. See Attachment 4, pages 1-2. The Montana Democratic Party states that the mailing, which was distributed throughout Congressman Williams' district on November 2, 1990, made reference to Congressman Williams re-election and actually encouraged voters not to vote for him. The Montana Democratic Party alleges that the Montana Family Forum's activities constitute independent expenditures opposing the election of Congressman Pat Williams.

On March 11, 1991, the Montana Democratic Party filed a supplement to its complaint. See Attachment 6. In the supplement, the Montana Democratic Party requested that an enclosed letter be included as evidence in its complaint. The enclosed letter is a letter appearing on Christian Coalition letterhead, dated September 24, 1990, addressed to Congressman Williams and signed by Ron Oberlander, the State Director of MFF. The letter has the Montana Family Forum's name and mailing address in the bottom left hand corner. The Montana Democratic Party argues that a letter written by the MFF on

92040900915

Christian Coalition letterhead is evidence of a political relationship between the MFF and the Christian Coalition.

In its response to the complaint, Mr. Ron Oberlander of MFF states that it was established in January 1990 "as an educational forum for issues affecting traditional family values." See Attachment 7, page 2. Mr. Oberlander states that MFF functioned informally as an unincorporated volunteer organization for a period of one year. According to Mr. Oberlander, as of January 1, 1991, MFF has been inactive due to the lack of ongoing financial support.

Mr. Oberlander notes that during the year that it was active, decency was a critical issue for MFF. Because of its concern with this issue, MFF prepared a mailing to inform the public on the issue of taxpayer funding for "Questionable Art." Mr. Oberlander states that although its activities regarding educating the public coincided with the re-election campaign of Congressman Williams, "[i]t is the Family Forum's position that the mailing was for educational purposes only in regard to the issues of decency and continued tax payer funding of 'questionable art.'" See Attachment 7, page 2. Mr. Oberlander also states that all references to positions or statements by Congressman Williams on the decency issue were on the public record.

Mr. Oberlander states that he and MFF have not participated at any time in activities or funds to elect or defeat any Federal candidate. He indicates that MFF "did not hold or advocate an independent position nor make public statements in regard to the election of Congressman Williams." See Attachment 7, page 3. MFF

92040900916

concludes its response by stating that MFF's overall activities were so limited that if it was believed or understood that a qualifying independent expenditure had occurred, such expenditures and activities would have been appropriately declared and reported.

In its response, MFF included a video including a three minute ABC news story with Peter Jennings regarding the NEA and a 30 minute Kalispell City Council meeting with public testimony regarding a decency ordinance. In its response, MFF also included publications which it distributed during the Kalispell decency debate, membership information used to describe MFF activities, and an information sheet which describes art works which were exhibited partly through NEA funds. Also included was an information sheet entitled "Examples of How The National Endowment for the Arts Uses Your Tax Dollars" which described the art for which the NEA awarded funds for the purpose of exhibits.

In its response, MFF did not include the information sheet which the Montana Democratic Party included in its complaint as having been sent to voters in Congressman Williams' district.¹⁵ See Attachment 4, page 13. The information sheet which was referenced earlier states:

"Your Tax Dollars At Work- Pat Williams says this is art. . .

And as chairman of the committee which oversees the National Endowment for the Arts, Pat Williams actively

15. The information sheet does not identify MFF as the sender. MFF never denied or addressed this issue in its response to the complaint. However, based on a telephone conversation with staff from this Office, we concluded that MFF was not arguing this point.

92040900917

fought for and spent your tax dollars to support it However, the arrogance he has shown by spending your dollars, then labeling anyone who opposes him as a 'rightwing evangelical political cuckoo' demands his removal from office.

The issue is graphically clear . . . if you agree Pat, return him to represent you in the United States Congress. If not, vote to retire him."

As noted earlier, in the flier distributed by MFF, an unincorporated entity, MFF advocates the defeat of Congressman Williams in the upcoming election. The flier which was distributed in Congressman Williams' district on November 2, 1990, MFF discusses Congressman Williams' role in NEA funding and describes artworks exhibited with NEA funds. In the flier, MFF states "if you agree with Pat, return him to represent you in the United States Congress. If not, vote to retire him."

In a letter dated February 25, 1992, Mr. Oberlander stated that the flier in question was a one-time mailing with postage costs of approximately \$1,099.39 and paper costs of approximately \$200. See Attachment 10. Mr. Oberlander indicated that there were no printing costs because the flier was produced through volunteer assistance. Therefore, the total cost of the mailing was \$1,299.39.

In reference to the March 11, 1991, supplement filed by the Montana Democratic Party, Mr. Oberlander stated that the letter which appeared on Christian Coalition letterhead and closed with his name was not produced or distributed with his permission or knowledge. See Page 32. Mr. Oberlander indicated that the Christian Coalition sought his interest as a possible state coordinator and director, but that no relationship ever developed.

92040900918

2. Legal Analysis

Based on the language in this communication, this Office concludes that MFF expressly advocated the defeat of Congressman Williams in a flier which was distributed in his district just a few days before the election. Because it appears that MFF spent more than \$1,000 on the publication and distribution of this flier, it should have registered with and filed reports with the Commission as a political committee. The flier appears to have been distributed on November 2, 1990. Therefore, it appears that expenditures aggregating \$1,299.39 were made after the twentieth day but more than 24 hours before 12:01 A.M. of the day of an election. MFF failed to file a report disclosing these independent expenditures within 24 hours after such expenditures were made.

Because MFF made expenditures for a communication which expressly advocated the defeat of a clearly identified candidate, it should have included a disclaimer in the communication. The disclaimer should have indicated the name of the person who paid for the communication and stated that the communication was not authorized by any candidate or candidate's committee.

Based on the foregoing, this Office recommends that the Commission find reason to believe that the Montana Family Forum and Ron Oberlander, as State Director, violated 2 U.S.C. §§ 433 and 434(b) by failing to register with and report to the Commission. This Office also recommends that the Commission find reason to believe that the Montana Family Forum and Ron Oberlander, as State Director, violated 2 U.S.C. § 434(c) by

92040900919

failing to report, within 24 hours after expenditures were made, independent expenditures aggregating \$1,000 or more made after the 20th day, but more than 24 hours before any election.

Additionally, this Office recommends that the Commission find reason to believe that Montana Family Forum and Ron Oberlander, as State Director, violated 2 U.S.C. § 441d by failing to include an adequate disclaimer in the communication.

Although it appears that a number of fliers could have been distributed for \$1,299.39, the total expenditures for the flier were only \$300 more than the \$1,000 expenditure threshold which makes an entity a political committee. This Office also notes that at the time MFF was active, it was a volunteer organization and that MFF has not been active since January 1991. If MFF were the subject of its own matter under review (MUR), this Office would recommend that the Commission expend no further resources on this matter and take no further action. Therefore, based on the foregoing, this Office recommends that the Commission take no further action in regard to MFF and Ron Oberlander, as State Director.

III. RECOMMENDATIONS

1. Find no reason to believe that the Christian Coalition and Ralph Reed, as Executive Director, violated 2 U.S.C. §§ 441b and 441d.
2. Find no reason to believe that American Family Association Foundation and Don Wildmon, as Executive Director, violated 2 U.S.C. § 441b.
3. Find reason to believe that the Montana Family Forum and Ron Oberlander, as State Director, violated 2 U.S.C. §§ 433, 434(b), 434(c), and 441d and take no further action in regard to these respondents.

92040900920

4. Approve the appropriate letters and attached factual and legal analysis.

5. Close the files.

Date

3/6/92


Lawrence M. Noble
General Counsel

Attachments

1. DCCC complaint
2. Montana Democratic Party complaint
3. Christian Coalition's response
4. Amendment to the complaint
5. AFAP's response
6. Supplement to the complaint
7. MFF's response
8. Christian Coalition's February 11, 1991 letter
9. Christian Coalition's April 2, 1991 letter
10. MFF's February 25, 1992 letter
11. MFF Factual and Legal Analysis

92040900921



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM

TO: LAWRENCE M. NOBLE
GENERAL COUNSEL

FROM: MARJORIE W. EMMONS/DONNA ROACH *DR*
COMMISSION SECRETARY

DATE: MARCH 12, 1992

SUBJECT: MURS 3167 AND 3176 - FIRST GENERAL COUNSEL'S REPORT
DATED MARCH 6, 1992

The above-captioned document was circulated to the
Commission on MONDAY, MARCH 9, 1992 at 4:00 P.M..

Objection(s) have been received from the
Commissioner(s) as indicated by the name(s) checked below:

Commissioner Aikens	_____
Commissioner Elliott	_____
Commissioner McDonald	<u>XXX</u>
Commissioner McGarry	<u>XXX</u>
Commissioner Potter	<u>XXX</u>
Commissioner Thomas	<u>XXX</u>

This matter will be placed on the meeting agenda
for WEDNESDAY, MARCH 25, 1992.

Please notify us who will represent your Division before
the Commission on this matter.

92040900922



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

RECEIVED
F.E.C.
SECRETARIAT

92 MAR 18 PM 2:42

MEMORANDUM

TO: Marjorie W. Emmons
Commission Secretary

FROM: Commissioner Trevor Potter *TP (LJAB)*

RE: Withdrawal of objection in MURs 3167 & 3176 and
casting vote of approval

Due to Commissioner Potter's absence from the Executive Session Meeting scheduled for March 25, 1992, he requests that his objection in MURs 3167 and 3176 be withdrawn, and that the tally instead reflect that he is voting in approval of the First General Counsel's Report in those matters circulated on March 9, 1992.

cc: Chairman Aikens
Anton Reel
Judy Hawkins

92040900923

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MURS 3167 AND 3176
Democratic Congressional Campaign)
Committee (MUR 3167);)
Montana Democratic Party)
(MUR 3176);)
Christian Coalition and Ralph Reed,)
as Executive Director)
(MUR 3167 and MUR 3176);)
American Family Association)
Foundation and Don Wildmon, as)
Executive Director (MUR 3176);)
Montana Family Forum and Ron)
Oberlander, as State Director)
(MUR 3176))

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session on March 25, 1992, do hereby certify that the Commission took the following actions with respect to the above-captioned matters:

1. Failed in a vote of 3-2 to pass a motion to take the following actions:
 - a) Find reason to believe that the Christian Coalition and Ralph Reed, as Executive Director violated 2 U.S.C. §§ 441b and 441d.
 - b) Find reason to believe that American Family Association Foundation and Don Wildmon, as Executive Director, violated 2 U.S.C. § 441b.

(continued)

920409009224

- c) Find reason to believe that the Montana Family Forum and Ron Oberlander, as State Director, violated 2 U.S.C. §§ 433, 434(b), 434(c), and 441d and take no further action in regard to these respondents.
- d) Approve appropriate Factual and Legal Analyses and appropriate letters pursuant to the actions noted above.

Commissioners McDonald, McGarry, and Thomas voted affirmatively for the motion; Commissioners Aikens and Elliott dissented; Commissioner Potter was not present.

2. Failed in a vote of 2-3 to pass a motion to take the following actions:

- a) Find no reason to believe that the Christian Coalition and Ralph Reed, as Executive Director, violated 2 U.S.C. §§ 441b and 441d.
- b) Find no reason to believe that American Family Association Foundation and Don Wildmon, as Executive Director, violated 2 U.S.C. § 441b.
- c) Find reason to believe that the Montana Family Forum and Ron Oberlander, as State Director, violated 2 U.S.C. §§ 433, 434(b), 434(c), and 441d and take no further action in regard to these respondents.

(continued)

92040900925

Federal Election Commission
Certification for MURS 3167 and 3176
March 25, 1992

Page 3

- d) Approve the appropriate letters and factual and legal analysis as recommended in the General Counsel's report dated March 6, 1992.
- e) Close the files.

Commissioners Aikens and Elliott voted affirmatively for the motion; Commissioners McDonald, McGarry, and Thomas dissented; Commissioner Potter was not present.

3. Decided by a vote of 5-0 to close the files in MURS 3167 and 3176.

Commissioners Aikens, Elliott, McDonald, McGarry, and Thomas voted affirmatively for the decision; Commissioner Potter was not present.

Attest:

5/29/92
Date

Marjorie W. Emmons
Marjorie W. Emmons
Secretary of the Commission

920409009226



FEDERAL ELECTION COMMISSION
WASHINGTON, DC 20463

April 7, 1992

**CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

Richard M. Bates, Executive Director
Democratic Congressional Campaign Committee
430 South Capitol Street
Washington, DC 20003

RE: MUR 3167

Dear Mr. Bates:


The Federal Election Commission has reviewed the allegations contained in your complaint dated November 5, 1990. On March 25, 1992, the Commission considered your complaint, but there was an insufficient number of votes to find reason to believe that the Christian Coalition and Ralph Reed, as Executive Director, violated the Federal Election Campaign Act of 1971, as amended.

Accordingly, on March 25, 1992, the Commission closed the file in this matter. The Federal Election Campaign Act allows a complainant to seek judicial review of the Commission's dismissal of this action. See 2 U.S.C. § 437g(a)(8).

If you have any questions, please contact Mary Taksar, the attorney assigned to this matter, at (202) 219-3400.

Sincerely,

Lawrence M. Noble
General Counsel


BY: Lois G. Lerner
Associate General Counsel

Enclosure
General Counsel's Report
and Certification

92040900927



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 7, 1992

CLOSED

Christian Coalition and
Ralph Reed, as Executive Director
c/o Frank M. Northam, Esq.
Webster, Chamberlain & Bean
1747 Pennsylvania Avenue, N.W.
Washington, D.C. 20006

RE: MURS 3167 and 3176

Dear Mr. Northam:

On November 17, 1990 and November 28, 1990, the Federal Election Commission notified your clients, the Christian Coalition and Ralph Reed, as Executive Director, of a complaint alleging that the Christian Coalition and Ralph Reed, as Executive Director, violated certain sections of the Federal Election Campaign Act of 1971, as amended.

On March 25, 1992, the Commission considered the complaint but there was an insufficient number of votes to find reason to believe that the Christian Coalition and Ralph Reed, as Executive Director, violated 2 U.S.C. §§ 441b and 441d. Accordingly, the Commission closed its file in this matter. This matter will become part of the public record within 30 days. Should you wish to submit any materials to appear on the public record, please do so within ten days of your receipt of this letter. Please send such materials to the General Counsel's Office.

If you have any questions, please direct them to Mary Taksar, the attorney assigned to this matter, at (202) 219-3400.

Sincerely,

Lawrence M. Noble
General Counsel

BY: 
Lois G. Lerner
Associate General Counsel

Enclosure
General Counsel's Report

92040900928



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 3167

DATE FILMED 4/29/92 CAMERA NO. 2

CAMERAMAN S.E.G.

92040900929